

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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DATE: **APRIL 7, 2008**

FROM: **SAMUEL MARTINEZ, LAFCO Analyst**

TO: **LOCAL AGENCY FORMATION COMMISSION**

SUBJECT: **AGENDA ITEM #8:** LAFCO 3085 – Reorganization to Include Annexations to the City of Barstow, Odessa Water District, Barstow Fire Protection District and Detachment from County Service Area 70 Improvement Zone S-7 (No. 07-01 – Jasper Road)

INITIATED BY:

City of Barstow Council Resolution

RECOMMENDATION:

Staff is recommending that the Commission:

1. Take the following actions with respect to environmental review:
 - a) Certify that the City's Mitigated Negative Declaration for the West Barstow Annexation (General Plan Amendment GPA#06-08 and Pre-Zoning ZC#06-10) (SCH No. 2006091119) has been independently reviewed and considered by the Commission and its staff;
 - b) Determine that the City's environmental assessment and Mitigated Negative Declaration are adequate for the Commission's use, as a CEQA responsible agency, for its consideration of LAFCO 3085;
 - c) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified in the City's environmental documents are the responsibility of the City and/or others, not the Commission;
 - d) Direct the Clerk to file a Notice of Determination within five (5) days and find that no further Department of Fish and Game filing fees are

required by the Commission's approval since the City, as lead agency, has paid said fees.

2. Approve LAFCO 3085, with the following conditions:
 - a. Standard terms and conditions that include the "hold harmless" clause for potential litigation costs, continuation of fees, charges, assessments, and the identification that the transfer of utility accounts will occur within 90 days of the recording of the Certificate of Completion;
 - b. County Service Area 40 shall continue to overlay and serve the reorganization area; and,
 - c. Protest Proceedings for this reorganization shall be held in abeyance, for a period not to exceed six months. The City of Barstow is required to initiate the annexation of the substantially-surrounded island, identified as the Lenwood Area Annexation located west of Lenwood Road, as shown on the maps within this report during the identified six-month abeyance period. Compliance with this condition shall be deemed fulfilled upon issuance of the Certificate of Filing for the said Lenwood Area Annexation proposal.
3. Adopt LAFCO Resolution #3000, setting forth the Commission's findings, determinations, and conditions for the proposal.

BACKGROUND INFORMATION:

In July 2007, the City of Barstow submitted to LAFCO a reorganization application which proposes to annex approximately 144+/- acres to the City of Barstow, its subsidiary Odessa Water District and the independent Barstow Fire Protection District (FPD). The proposal was initiated by City Council resolution. The reorganization area is generally located about a mile north of the I-15 Freeway and the Highway 58 interchange. Location and vicinity maps are included as Attachment #1 to this report.

The City's purposes in submitting this proposal, as outlined in its application, are as follows:

1. To provide municipal services for an area that is poised to be developed in the near future; and,
2. To "square-off" a City's boundary bordered on two sides by its current corporate boundaries, thereby reducing jurisdictional confusion between the City and County boundaries.

Upon receipt of the application, LAFCO staff expanded the consideration to include the detachment of County Service Area 70 Improvement Zone S-7 (hereinafter “CSA 70 S-7”). A map showing the boundaries of CSA 70 S-7 and the area being detached is included as part of Attachment #1 to this report.

This report will provide the Commission with the information related to the four major areas of consideration required for consideration for a jurisdictional change – boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations.

BOUNDARIES:

The reorganization area, which is proposed to be annexed to the City of Barstow, its subsidiary Odessa Water District (whose boundaries are coterminous with the City), and the independent Barstow FPD, encompasses approximately 144+/- acres and is generally bordered by Jasper Road/Highway 58 (existing City of Barstow boundaries) on the east, parcel boundaries on the south generally along the Burlington Northern Santa Fe Railroad (existing City of Barstow boundaries), parcel boundaries on the west, and Agate Road on the north (see Fig.1 below). The area lies within the City of Barstow’s northern sphere of influence.

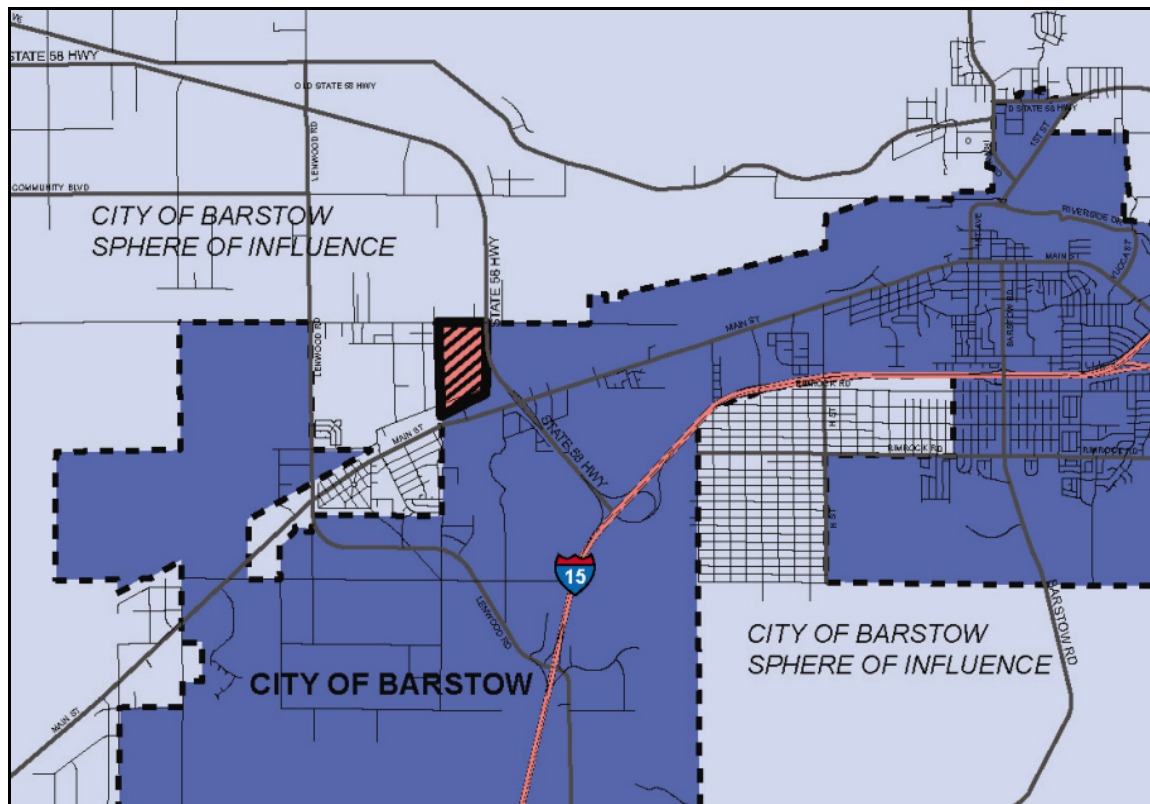


FIGURE 1

It is LAFCO staff's position that this reorganization proposal is a logical boundary since it squares off the City's boundary along Agate Road on the north and the natural extension of Tortoise Road along the west, which is an easily identifiable boundary for service delivery.

In processing this application, LAFCO staff expanded the consideration to include the detachment of CSA 70 S-7 as part of the overall reorganization. CSA 70 S-7 is a sewerage entity created by the County in 1977 to originally provide for a sewerage study for the unincorporated Lenwood and Grandview communities. This agency has evolved to provide a sewage collection system providing service generally to the Lenwood community.

Boundary Issue for Review:

LAFCO staff reviewed with City staff early in the process the Commission's directives which require a city to address its totally and substantially-surrounded islands when requesting approval of development-related annexations. The City of Barstow's islands were outlined in the Commission's general discussion of islands and its policies at the Workshop held on March 31, 2005. At that time, the materials presented to the Commission specifically identified eight islands that were substantially surrounded. One of the islands identified is a 142-acre substantially-surrounded island that is located to the west of Lenwood Road, southwesterly of the current proposal (See Figure 1 below).

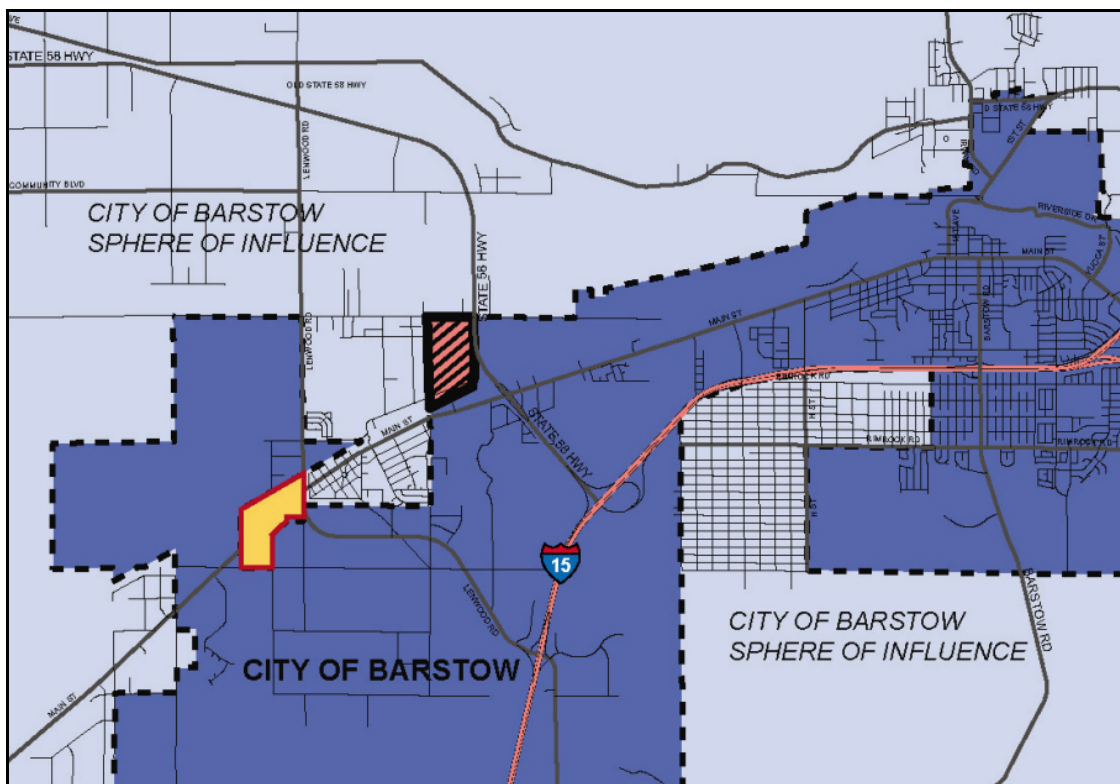


FIGURE 1

In keeping with Commission policies and directives, staff reviewed the options related to addressing the substantially surrounded island through consideration of LAFCO 3085 in order to provide “equity” in service delivery. In the staff view, this equity relates to balancing the “profitable” annexation with those that are not so that service delivery is truly reflective of the community. In reference to these policies and directives, the following options are available to the Commission:

- Requiring the initiation of the island as a condition of approval for LAFCO 3085. The imposition of this condition would require that the City initiated the proposal, prior to protest proceedings for LAFCO 3085. The condition language indicates that protest proceedings will be held in abeyance for a period of six months until compliance of this condition of approval is fulfilled. Failure to comply with the condition would terminate LAFCO 3085.
- Determine that the City of Barstow will be required to initiate the island annexation within one year of the approval of LAFCO 3085. In 2001, during the consideration of the City’s annexation of the Martin Corps Logistics Base/Nebo, the City requested that proposal not be conditioned on the initiation of the annexation of the “Mojave Manor” island, but rather that they be directed to initiate the proposal. At that time, the City indicated it would comply with the Commission’s request within a one-year timeframe, and did so.
- The Commission could determine to override its policy direction and approve the reorganization without the requirement to address the substantially surrounded island.

LAFCO staff is recommending the imposition of the condition of approval in order to begin to address the substantially surrounded island of territory.

LAND USE:

Existing Land Uses:

The reorganization area is currently a mix of vacant and developed lands. The developed lands within the reorganization area include a 96-unit apartment complex and an elementary school. Surrounding land uses include: single-family residential uses to the west, vacant land to the north, and a mix of vacant land and railroad facilities to the east and south (within the City of Barstow).

County Land Use Designations:

The County’s current land use designations for the area include: 1) Rural Living (RL) which allows for rural residential uses on minimum 2½ acre lots, incidental

agricultural uses, and similar and compatible uses; 2) Single Residential (RS-14m) which allows single-family residential uses on minimum 14,000 sq. ft. lots, and other similar and compatible uses; and 3) Multiple Residential (RM) which allows multiple and/or mixed residential uses, and other compatible non-residential uses.

City's General Plan:

The City of Barstow's General Plan designation for the area is Desert Living (DL) Specific Plan (at 2.0 dwelling units per acre) which allows for a number of uses with densities identical to Desert Living, subject to a specific plan. As outlined above, the land use determinations between the City and County are generally compatible.

City's Pre-Zone Designations:

The City of Barstow has pre-zoned the reorganization area for the following land uses: PF (Public Facility), DR (Desert Ranchette), RS-6 (Single-Family Residential, RM-1 (Multi-Family Residential, triplex) MR-2 (Multi-Family Residential, apartments), and M-1 (Light Industrial). These pre-zone designations were determined through the City's consideration of Ordinance No. 820-2007, which was adopted on February 5, 2007. These land use designations are consistent with the City's General Plan designations for the area and are also consistent with surrounding land uses. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for a period of two (2) years following annexation. The law allows for a change in designation if the City Council makes the finding, at a public hearing, that a substantial change has occurred in circumstances that necessitate a departure from the pre-zoning outlined in the application made to the Commission.

SERVICE ISSUES AND EFFECTS ON OTHER LOCAL GOVERNMENTS:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. Current County service providers within the reorganization area include County Service Area 40 (television translator) and County Service Area 70 (multi-function entity primarily utilized to fund fire administration) and CSA 70 Improvement Zone S-7 (sewer). In addition, the Golden State Water Company (a private water company that provides retail water service), the Barstow Public Cemetery District, the Mojave Desert Resource Conservation District, and the Mojave Water Agency (the State Water Contractor) overlay the reorganization area as well.

The City of Barstow has submitted a Plan for Service for itself and its subsidiary Odessa Water District and the Barstow Fire Protection District (Barstow FPD) has submitted a plan for service as required by law and Commission policy. The City's

plan is included as part of Attachment #2 and the Barstow FPD's plan is included as Attachment #3.

The City's plan includes a Fiscal Impact Analysis which indicates that the property tax revenues anticipated to be received, sales tax revenues, utility user's tax, development impact fees, and other revenue are sufficient to fund the delivery of its services. Of note, during the property tax transfer negotiations required for this reorganization, the implementation of the standard formula for property tax transfers would have provided a less than 7% share to the City of Barstow. In keeping with the County's revised policy related to City annexations, the process is providing for a 7% share of property tax to the City.

The plan for service, in general, identifies the following:

- The City of Barstow provides the sewage collection and treatment system within its boundaries and also provides for sewage treatment and collection system maintenance within the unincorporated areas of the Lenwood and Grandview communities. Within the reorganization area, the City already provides sewer service to the existing apartment complex on Jasper Road (Tract 11961) through an out-of-agency agreement that was approved by the City in 1984 (see Resolution No. 2614-84 which is included as part of attachment #2 to this report).

In 2002, the Commission approved LAFCO SC#184, authorizing the City to extend sewer service within the boundaries of CSA 70 S-7. This contract was the result of problems related to the sewage disposal system in the High Desert Estates mobilehome subdivision located at the northeast corner of Jasper and Lenwood Road and severe septic tank problems within the larger Lenwood Community. The only solution available was to connect a sewage system and the only system available was through the City. Since then, the City, through CSA 70 S-7, has been providing sewer treatment services within the unincorporated Lenwood and Grandview communities and CSA 70 S-7 provided the funding mechanism to install the necessary collection facilities. Recently, the City and the County completed the construction of a new 8-inch gravity flow sewer line that would enhance sewer service in the Lenwood/Grandview areas. As a result, there is adequate sewer service capacity to serve any proposed development within the reorganization area.

As part of the reorganization process, CSA 70 S-7 will be detached from the reorganization area and its services directly assumed by the City of Barstow.

- Water service is currently provided by the Golden State Water Company, a private water company regulated by the Public Utilities Commission. No change will occur for this service provider based upon this reorganization. Additional water mains and reservoirs may be needed in the future in order

to meet fire flow standards for any new development within the reorganization area.

Odessa Water District, a subsidiary district of the City, was formed as a special act water agency that is authorized to provide water service within its boundaries. However, the district does not currently provide this service. It was created to serve as “backstop” in the event the existing water purveyor serving the Barstow area (Golden State Water Company) becomes unable to provide service or opportunities to provide additional water resources were required.

- Law enforcement responsibilities will shift from the San Bernardino County Sheriff’s Department and California Highway Patrol to the City of Barstow Police Department. The City has indicated that the department’s personnel and equipment can adequately serve the area.
- Fire protection and emergency services are to be provided by the Barstow FPD through annexation. A plan for service provided by the Barstow FPD, which is included as Attachment #3 to this report, outlines the services to be provided by the District and the mechanism for funding the operation of these services.

It is the position of staff that LAFCO 3085 is a straightforward and logical extension of service delivery boundaries through the City of Barstow and the Barstow FPD. As required by Commission policy and State law, the Plan for Services submitted by the City and the Barstow FPD indicate that the extension of services within the reorganization area will maintain, and/or exceed, current service levels provided through the County and its special districts.

ENVIRONMENTAL CONSIDERATIONS:

The City of Barstow prepared an Initial Study and Mitigated Negative Declaration which included a General Plan Amendment (GPA#06-08) and Pre-Zoning (ZC#06-10) for the West Barstow Annexation (SCH No. 2006091119) . The City’s environmental assessment has been reviewed by the Commission’s Environmental Consultant, Tom Dodson of Tom Dodson and Associates, and has determined that the City documents are adequate for Commission use. Mr. Dodson outlines his recommendations in a letter that is included as part of Attachment #4 to this report.

Mr. Dodson has indicated that the necessary environmental actions to be taken by the Commission, as a responsible agency under CEQA, are as follows:

- Certify that the City’s Mitigated Negative Declaration for the West Barstow Annexation (SCH No. 2006091119) has been independently reviewed and considered by the Commission and its staff;

- Determine that the City's environmental assessment and Mitigated Negative Declaration are adequate for the Commission's use, as a CEQA responsible agency, for its consideration of LAFCO 3085;
- Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified in the City's environmental documents are the responsibility of the City and/or others, not the Commission;
- Direct the Clerk to file a Notice of Determination within five (5) days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.

FINDINGS:

The following determinations are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/reorganization proposal:

1. The County Registrar of Voters Office has determined that the reorganization area is legally inhabited, containing 44 registered voters as of January 23, 2007.
2. The County Assessor has determined that the total assessed value of land and improvements within the reorganization area is \$4,614,393 (land - \$1,764,963 -- improvements - \$2,849,248).
3. The area is within the sphere of influence assigned the City of Barstow.
4. Commission review of this proposal has been advertised in *The Sun*, and the *Desert Dispatch*, newspapers of general circulation within the reorganization area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
5. LAFCO staff has provided individual notice to the landowners and registered voters within the reorganization area (57 total) and to landowners and voters surrounding the reorganization area (463 total) in accordance with State law and adopted Commission policies. To date, no written comments or protests to this reorganization proposal have been received from area landowners or registered voters.
6. The City of Barstow has pre-zoned the reorganization area for the following land uses: PF (Public Facility), DR (Desert Ranchette), RS-6 (Single-Family

Residential, RM-1 (Multi-Family Residential, triplex) MR-2 (Multi-Family Residential, apartments), and M-1 (Light Industrial). Pursuant to the provisions of Government Code Section 56375(e), these pre-zone designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council.

7. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the Initial Study and Mitigated Negative Declaration prepared by the City for the General Plan Amendment and Pre-Zoning (SCH No. 2006091119). Mr. Dodson has indicated that the City's environmental assessment and Mitigated Negative Declaration are adequate for the Commission's review of the reorganization area as a responsible agency. The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the narrative portion of this report.
8. The area in question is presently served by the following local agencies:
 - County of San Bernardino
 - Mojave Desert Resource Conservation District
 - Mojave Water Agency
 - Barstow Public Cemetery District
 - County Service Area 40 (TV translator)
 - County Service Area 70 (multi-function unincorporated area Countywide)
 - CSA 70 Improvement Zone S-7 (sewer service)

The proposal will annex the territory to the Barstow Fire Protection District and Odessa Water District and will detach the territory from CSA 70 Improvement Zone S-7 from the area as a function of the reorganization. The detachment of CSA 70 will automatically occur upon successful completion of this proposal as required by Government Code Section 25210.90. CSA 40, a district that provides TV translator services on a regional basis, will continue to overlay and serve the area the area. Pursuant to the provisions of Government Code Section 56375(n) the Commission determines that the continued overlay of CSA 40 is necessary and will not impair the ability of the City of Barstow to provide its service. None of the other agencies are affected by this proposal as they are regional in nature.

9. The City of Barstow has submitted a plan for the extension of municipal services to the reorganization area, as required by law, for itself and the Odessa Water District. The financial information presented within the Plan for Service indicates that the extension of services can be maintained and operated after the reorganization through existing and potential revenue resources available through the transfer of property taxes, extension of utility tax, sales tax, and fees for service. This plan is included as part of

Attachment #2 to this report, which indicates that the City can, at a minimum, maintain the level of service delivery and can improve the level and range of selected services currently available in the area.

Fire protection and emergency services are to be provided by the Barstow FPD. The plan for service provided by the Barstow FPD outlines the services to be provided by the District and the mechanism for funding the operation of these services.

10. The reorganization proposal is consistent with State law and complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
11. The reorganization area can benefit from the availability and extension of municipal services from the City of Barstow.
12. This proposal will assist the City's ability to achieve its fair share of the regional housing needs within the reorganization area upon future development of the vacant parcels that have a residential land use designation.
13. Starting January 1, 2008, Government Code Section 56668(o) requires that LAFCO consider the extent to which a proposal will promote environmental justice. Using the U.S. 2000 Census data, the following statements have been generated with regard to race and income within and around the area:

The City of Barstow has a citywide population that is 36.5 percent Hispanic (Hispanics being the largest minority) while the reorganization area has a population that is 32.1 percent Hispanic. With regard to income, the City of Barstow has a median family income of \$40,160 while the reorganization area has a median family income of \$44,017.

Therefore, LAFCO staff believes that the reorganization area would benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based on race, culture or income.

14. The County of San Bernardino (on its own behalf and that of the Barstow Fire Protection District) and the City of Barstow have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.

15. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

CONCLUSION:

In compliance with directives of State law and Commission policies, it is staff's position that this reorganization is a straightforward boundary change and should be supported. As outlined in the staff report, the reorganization provides for a logical service boundary since it squares-off the city's boundary along Agate Road on the north and the natural extension of Tortoise Road along the west. In addition, the area has been pre-zoned and planned for the type of land use that requires the full range of municipal-type of services. For these reasons, and those outlined throughout the staff report, the staff supports the approval of LAFCO 3085.

In the past, the Commission has required the City of Barstow to initiate the annexation of a totally surrounded island of territory as a determination on a larger annexation. Specifically, in October 2001, the Commission took the action to approve LAFCO 2880, a proposal to annex the Marine Corps Logistics Base/Nebo in Barstow, with the requirement that the City initiate, within one year, the annexation of the Mojave Manor Island, a totally surrounded island. The City came back within the given timeframe with LAFCO 2909, which was approved.

Staff recommends that the Commission impose the condition that requires the City of Barstow to initiate the annexation of the substantially surrounded island located west of Lenwood Road prior to protest proceedings for LAFCO 3085.

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Attachments:

1. Vicinity and Location Maps of the Reorganization Area
2. City's Application and Plan for Services for City and Odessa Water District including Resolution No 2614-84 (Tract 11961 Sewer Agreement)
3. Barstow Fire Protection District's Plan for Service
4. Response from Tom Dodson and Associates and the City's Environmental Assessment and Mitigated Negative Declaration for the West Barstow Annexation
5. Draft Resolution No. 3000